IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10537 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SANJAYSINH M WAGHELA

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner

MR SAMIR DAVE AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/02/2001

ORAL JUDGEMENT

#. This matter was admitted by the court on 9.10.2000 and order of the court reads as under :-

"Rule returnable on date on which completion of three weeks from today, takes place, with a

direction to the respondents to file their respective affidavits in reply, if they so desire.

Office is directed to place this matter on Final Hearing Board after service of rule in seriatim as per chronological order of actual date of execution of detention order on detenu, in each case keeping in mind the Register which has been ordered to be kept and maintained."

#. This court expected from the respondents to file reply within 3 weeks of the date of the issuance of the rule. More than 3 months has been passed but none of the respondents has cared, bothered and concerned to file the reply to the Special Civil Application. This matter exhibits clearly that the detention order has been passed to have statistical data satisfaction. Not only this, from this case also it can be inferred that deliberately serious lacunas are left in the order by the detaining authority so that there may not be any difficulty in the way of the petitioner to get himself released from the court.

#. Under the order of the Police Commissioner, Rajkot City, Rajkot the petitioner was ordered to be detained as bootlegger under sub-section (1) of Section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985. From the grounds of the detention, I find that only solitary case is there against the petitioner. This criminal complaint was registered for the offences punishable under the Prohibition Act against the petitioner on 20.4.2000 and this detention order was came to be passed on 14.9.2000. The learned counsel for the petitioner contended that this delay in passing of the detention order which is more than 4 months in this case vitiates the order as well as itself is sufficient ground for quashing and setting the detention order. This delay makes it clear that there may not be any proximity for the detention and the ground given for the same and its subjective satisfaction recorded by the detaining authority is not genuine.

#. Reply to the Special Civil Application has not been filed by the respondents and this factual averments made by the petitioner in the petition stands uncontroverted and as a result of which the same are taken to be correct. Otherwise also the learned counsel for the respondents fairly conceded that no explanation whatsoever is furnished for this delay which is there in

making of the detention order of the petitioner.

#. In view of the concession made by the learned counsel for the respondents otherwise also it is not necessary to make any discussion on all the contentions raised by the learned counsel for the petitioner and to give decision thereon. It is suffice to say that this case is squarely covered by the decision of Justice N.N.Mathur (as he then was) in the case of Elesh Nandubhai Patel Vs. Commissioner of Police, Ahmedabad reported in 1997(1) GLH 381.

In the result, the Special Civil Application succeeds and the same is allowed. The order of detention of the petitioner dated 14.9.2000 is quashed and set aside. The petitioner Sanjaysinh M. Waghela, the detenu, at present in Junagadh Jail, Junagadh be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. As learned counsel for the respondents has come up with all fairness, no order as to costs.

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